

**REIMBURSEMENT AGREEMENT**

12/15/00 FULL

**LIBBY ASBESTOS SITE**

Lincoln County, Montana

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2000, by and between Mel and Lirah Parker ("Owner") and the United States Environmental Protection Agency ("EPA").

WHEREAS, the response action at the Libby Asbestos Site (the "Site"), Lincoln County, Montana by EPA is authorized by Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq., and the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300; and

WHEREAS, the Owner is the owner of the land and improvements (the "Property") within the Screening Plant, a former vermiculite processing facility located within the Site; and

WHEREAS, the Owner maintains a residence on the Property and operates the Raintree Nursery, a business located on the Property; and

WHEREAS, the Action Memorandum issued by EPA on May 23, 2000 documented EPA's determination that cleanup was necessary at the Screening Plant because of asbestos contamination, thus requiring the temporary relocation of the Owner's home and business; and

WHEREAS, the selected response action being implemented at the Property has required the demolition of the Owner's home and buildings related to the nursery business, and the disposal of contaminated personal items, business inventory and other business related items which were either not amenable to cleaning or were more expensive to clean than to replace; and

WHEREAS, the Owner certifies that the Property was purchased with no knowledge of the asbestos contamination; and

WHEREAS, the Owner has decided to terminate business operations and to rebuild only a residence on the Property; and

WHEREAS, the Owner has granted access to the Property to EPA, its employees, agents, contractors and representatives for purposes of implementing the selected response action for the Screening Plant, including the demolition and disposal of contaminated buildings, equipment and inventory; and

WHEREAS, EPA has been providing funds to the Owner for temporary relocation assistance so that the Owner may maintain a different residence during the implementation of the selected response action at the Screening Plant;

NOW, THEREFORE, in consideration of the mutual promises, obligations, and agreements set forth below, the parties agree as follows:

**I. Obligations of EPA.**

A. EPA shall pay the Owner the sum of FOUR HUNDRED THOUSAND AND EIGHT HUNDRED SEVENTY FIVE DOLLARS (\$ 400,875) within 30 days of execution of this Agreement, which sum represents a fair and adequate value of the buildings demolished or to be demolished on the property. These buildings include the Parker residence-office, the long shed, six greenhouses and the west shed.

B. EPA shall provide a "Notice of Availability of Property" to the Owner upon completion of the response actions at the Screening Plant. The Owner may commence construction of a new dwelling on the date of issuance of the Notice.

C. EPA shall pay to the Owner the sum of FIVE HUNDRED FORTY SIX THOUSAND FOUR HUNDRED TWENTY DOLLARS AND NINETY ONE CENTS (\$546,420.91) within thirty (30) days of execution of this Agreement, which sum represents the replacement value of all personal items, equipment and inventory disposed of pursuant to implementation of the selected response action. The list of all items for which compensation is being provided pursuant to this paragraph is attached as Exhibit 1 to this Agreement.

D. EPA shall continue to pay to the Owner funds for temporary relocation assistance in accordance with the fee schedule set forth in Exhibit 2 to this Agreement until six months after the date of issuance of the Notice of Availability of Property. If EPA issues the Notice between October 1st and March 30th, the temporary relocation assistance period shall not exceed nine months from the date of the Notice of Availability of Property.

E. EPA will assure that the compaction of the soil meets government-issued specifications for construction at the proposed location for the new dwelling. In addition, upon completion of the response action, the replacement of the soil shall be graded in accordance with the Grading/Restoration Plan attached as Exhibit 3.

**II. Obligations of the Owner.**

A. The Owner has and will continue to provide to EPA, its employees, agents, contractors, and representatives an irrevocable right to enter upon the Property for purposes of implementing the selected response action at the Screening Plant through the date of the Notice of Availability of Property. The Owner further consents to the demolition and disposal of buildings, and disposal of contaminated personal items, business equipment and inventory covered by this Agreement.

B. The Owner agrees that compensation will not be sought in any forum for buildings, personal items, equipment, inventory and relocation costs where such compensation has already been provided for pursuant to this Agreement.

### **III. Release of Claims.**

The Owner hereby agrees that payment by EPA of the monetary amounts set forth herein at Paragraphs I.A, C and D represents full settlement and just compensation, under all applicable laws and regulations, of any and all claims the Owner may have against EPA arising from, or relating to, implementation of the response action on the Property, including, but not limited to, the demolition and disposal of structures located on the Property and the disposal of contaminated personal items, business equipment and inventory.

### **IV. Reservation of Rights.**

Nothing in this Agreement shall preclude EPA from pursuing any legal remedy that it may otherwise have against any potentially responsible party in order to recover costs EPA incurs for response actions at the Site.

### **V. No Warranty of Habitability or Fitness**

The Owner acknowledges and agrees that EPA's participation in this Agreement does not provide any warranty, assurance or guarantee that there are no design or construction defects or other deficiencies in dwellings, fixtures or equipment constructed or placed on the Property using funds provided by this Agreement. EPA shall not be responsible for any structural, mechanical, legal or other problems discovered during or after the construction.

### **VI. Notices.**

A. Any notice or communication required or permitted under this Agreement shall be deemed to have been given if in writing and either delivered personally or mailed by first-class, registered, or certified mail, as follows:

If to the Owner:

Mel and Lirah Parker

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If to EPA:

Paul Peronard, EPR-ER  
U.S. Environmental Protection Agency  
999 18th Street, Suite 300  
Denver, CO 80202

B. A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner prescribed above.

## VII. Modification.

This Agreement may be amended, modified or terminated only by written instrument or written instruments signed by both parties hereto. No oral comment nor act or course of dealing shall be construed to constitute an amendment, modification or termination hereof.

## VIII. Parties Bound

This Agreement is binding upon EPA and any successor agency of the U.S. Government, and upon the Owner and the Owner's heirs, successors and assigns.

## IX. Obligation of Future Appropriations

Nothing in this Agreement shall constitute, nor be deemed to constitute, an obligation of future appropriations by the Congress of the United States of America.

IN WITNESS WHEREOF, the parties have executed this Agreement, which shall become effective upon the date on which EPA executes the Agreement.

Owner

U.S. Environmental Protection Agency

Mel Parker

Max Dodson  
Assistant Regional Administrator  
Office of Ecosystem Protection  
and Remediation

Lirah Parker

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# REIMBURSEMENT AGREEMENT

12/15/00 PARTIAL

## LIBBY ASBESTOS SITE

Lincoln County, Montana

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2000, by and between Mel and Lirah Parker ( "Owner") and the United States Environmental Protection Agency ("EPA").

WHEREAS, the response action at the Libby Asbestos Site (the "Site"), Lincoln County, Montana by EPA is authorized by Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq., and the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300; and

WHEREAS, the Owner is the owner of the land and improvements (the "Property") within the Screening Plant, a former vermiculite processing facility located within the Site; and

WHEREAS, the Owner maintains a residence on the Property and operates the Raintree Nursery, a business located on the Property; and

WHEREAS, the Action Memorandum issued by EPA on May 23, 2000 documented EPA's determination that cleanup was necessary at the Screening Plant because of asbestos contamination, thus requiring the temporary relocation of the Owner's home and business; and

WHEREAS, the selected response action being implemented at the Property has required the demolition of the Owner's home and buildings related to the nursery business, and the disposal of contaminated personal items, business inventory and other business related items which were either not amenable to cleaning or were more expensive to clean than to replace; and

WHEREAS, the Owner certifies that the Property was purchased with no knowledge of the asbestos contamination; and

WHEREAS, the Owner has decided to terminate business operations and to rebuild only a residence on the Property; and

WHEREAS, the Owner has granted access to the Property to EPA, its employees, agents, contractors and representatives for purposes of implementing the selected response action for the Screening Plant, including the demolition and disposal of contaminated buildings, equipment and inventory; and

WHEREAS, EPA has been providing funds to the Owner for temporary relocation assistance so that the Owner may maintain a different residence during the implementation of the selected response action at the Screening Plant;

WHEREAS, EPA and the Owner continue to evaluate appropriate compensation for buildings demolished and to be demolished on the Property;

NOW, THEREFORE, in consideration of the mutual promises, obligations, and agreements set forth below, the parties agree as follows:

**I. Obligations of EPA.**

A. EPA shall provide a "Notice of Availability of Property" to the Owner upon completion of the response actions at the Screening Plant. The Owner may commence construction of a new dwelling on the date of issuance of the Notice.

B. EPA shall pay to the Owner the sum of FIVE HUNDRED FORTY SIX THOUSAND FOUR HUNDRED TWENTY DOLLARS AND NINETY ONE CENTS (\$546,420.91) within thirty (30) days of execution of this Agreement, which sum represents the replacement value of all personal items, equipment and inventory disposed of pursuant to implementation of the selected response action. The list of all items for which compensation is being provided pursuant to this paragraph is attached as Exhibit 1 to this Agreement.

C. EPA shall continue to pay to the Owner funds for temporary relocation assistance in accordance with the fee schedule set forth in Exhibit 2 to this Agreement until six months after the date of issuance of the Notice of Availability of Property. If EPA issues the Notice between October 1st and March 30th, the temporary relocation assistance period shall not exceed nine months from the date of the Notice of Availability of Property.

D. EPA will assure that the compaction of the soil meets government-issued specifications for construction at the proposed location for the new dwelling. In addition, upon completion of the response action, the replacement of the soil shall be graded in accordance with the Grading/Restoration Plan attached as Exhibit 3.

**II. Obligations of the Owner.**

A. The Owner has and will continue to provide to EPA, its employees, agents, contractors, and representatives an irrevocable right to enter upon the Property for purposes of implementing the selected response action at the Screening Plant through the date of the Notice of Availability of Property. The Owner further consents to the demolition and disposal of buildings, and disposal of contaminated personal items, business equipment and inventory covered by this Agreement.

B. The Owner agrees that compensation will not be sought in any forum for buildings, personal items, equipment, inventory and relocation costs where such compensation has already been provided for pursuant to this Agreement.

**III. Release of Claims.**

The Owner hereby agrees that payment by EPA of the monetary amounts set forth herein in Paragraphs I.B. and I.C. represents full settlement and just compensation, under all applicable laws and regulations, of any and all claims the Owner may have against EPA arising from, or relating to, implementation of the response action on the Property, but specifically excluding compensation for buildings located on the Property which were demolished as part of the EPA response action. Such response action includes, but is not limited to, relocation of the Owner, demolition and disposal of structures located on the Property and disposal of contaminated personal items, business equipment and inventory. Compensation for buildings located on the Property which were demolished as part of the EPA response action will be provided in a separate agreement.

#### **IV. Reservation of Rights.**

Nothing in this Agreement shall preclude EPA from pursuing any legal remedy that it may otherwise have against any potentially responsible party in order to recover costs EPA incurs for response actions at the Site.

#### **V. No Warranty of Habitability or Fitness.**

The Owner acknowledges and agrees that EPA's participation in this Agreement does not provide any warranty, assurance or guarantee that there are no design or construction defects or other deficiencies in dwellings, fixtures or equipment constructed or placed on the Property using funds provided by this Agreement. EPA shall not be responsible for any structural, mechanical, legal or other problems discovered during or after the construction.

#### **VI. Notices.**

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If to the Owner:

Mel and Lirah Parker

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If to EPA:

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IN WITNESS WHEREOF, the parties have executed this Agreement, which shall become effective upon the date on which EPA executes the Agreement.

Owner

\_\_\_\_\_  
Mel Parker

\_\_\_\_\_  
Lirah Parker

Date: \_\_\_\_\_

U.S. Environmental Protection Agency

\_\_\_\_\_  
Max Dodson  
Assistant Regional Administrator  
Office of Ecosystem Protection  
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Date: \_\_\_\_\_

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Mel Parker

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Date: \_\_\_\_\_

U.S. Environmental Protection Agency

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Max Dodson  
Assistant Regional Administrator  
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Date: \_\_\_\_\_